

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM HARRIS,)	
)	
Plaintiff,)	Civil Action No. 23 – 491
)	
v.)	District Judge David S. Cercone
)	
ASHLEY TRAFICANTE, <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by the Magistrate Judge Lisa Pupo Lenihan on July 18, 2023 (ECF No. 21) as well as the R&R entered by Judge Lenihan on October 13, 2023 (ECF No. 32). Plaintiff William Harris, an inmate proceeding *pro se*, filed two Motions for Preliminary Injunction and Temporary Restraining Order to which the R&Rs are directed. In the first Motion, Plaintiff complained about the delay in his outgoing legal mail. (ECF No. 20.) In the second Motion, Plaintiff complained about various issues related to his medical care. (ECF No. 26.) Judge Lenihan recommended that both Motions be denied. Service of the R&Rs were made on Plaintiff by mail, and Plaintiff filed timely objections to both. (ECF Nos. 24, 33.)

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R to which an objection properly has been filed. Fed. R. Civ. P. 72(b)(2), (b)(3), 28 U.S.C. § 636(b)(1). The court may accept, reject,

or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The court may also recommit the matter to the magistrate judge with instructions.

Plaintiff's "objections" are unavailing. Plaintiff erroneously conflates his perceived ability to establish a constitutional violation for intentional interference with his prison mail by prison personnel with the showing needed for injunctive relief. Of the two, only the later requires a showing of immediate irreparable harm, which as the magistrate judge aptly explained – plaintiff has failed to establish. Furthermore, plaintiff has failed to account for the ability to seek relief for any perceived prejudice and there is a clear indication in the record that a showing of any such prejudice has not been presented.

Similarly, plaintiff confuses his ability to characterize the events surrounding the medical care brought into focus in his motion with the presentation of probative information that satisfies the required showing for injunctive relief. Only the later will supply a basis for moving forward with a motion for injunctive relief. And in this regard plaintiff has failed to present a showing that he faces an imminent threat of irreparable injury.

In view of the foregoing, the Court enters the following Order:

AND NOW, this 15th day of December, 2023, upon due consideration of plaintiff's objections to [21] the Report and Recommendation of July 18, 2023, recommending that plaintiff's re-filed Motion for Preliminary Injunction and Temporary Restraining Order be denied, and plaintiff's objections to [32] the Report and Recommendation of October 13, 2023, recommending that plaintiff's motion for Preliminary Injunction and Temporary Restraining Order be denied, IT IS ORDERED that [24], [33] the objections be, and the same hereby are, overruled;

IT FURTHER IS ORDERED that for the reasons set forth in [21] the Report and Recommendation of July 18, 2023, [20] Plaintiff's Motion for Preliminary Injunction and Temporary Restraining Order be, and the same hereby is, denied;

IT FURTHER IS ORDERED that for the reasons set forth in the [32] Report and Recommendation of October 13, 2023, [26] Plaintiff's Motion for Emergency Injunction and Restraining Order be, and the same hereby is, denied.

The [21] Report and Recommendation dated July 18, 2023, and the [32] Report and Recommendation of October 13, 2023, as augmented above, are adopted as the Opinions of the Court.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: William Harris
CX-7039
SCI Fayette
50 Overlook Drive
LaBelle, PA 15450

Counsel of record
(Via CM/ECF electronic mail)